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ORIGIN ARA-10

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DRAFTED BY ARA/CAR - MR. STRASSER:LEE

APPROVED BY ARA/CAR - MR. HEAVNER

L/ARA - MR. KOZAK (DRAFT)

EB - MR. STEBBING (DRAFT)

LA/GC - MR. WILLIAMS (INFO)

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FM SECSTATE WASHDC

TO AMEMBASSY PORT AU PRINCE IMMEDIATE

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E.O. 11652: N/A

TAGS: EINV, HA

SUBJECT: PREPARATION FOR MEETING WITH TRANSLINEAR OFFICIALS

REFS: (A) STRASSER/ISHAM TELECON, MARCH 6, 1976; (B) PORT
AU PRINCE 595

1. DEPARTMENT IS VERY INTERESTED IN CONCILIATION/MEDIATION
(REF A) AS PROCEDURE TO RESOLVE DUPONT CARIBBEAN INC. (DCI)
AND TRANSLINEAR DISPUTES IF BINDING ARBITRATION IS NOT AC-
CEPTABLE TO GOH. WE SEE GREAT MERIT IN MOVING TO SETTLE
AT SAME TIME CLAIMS OF BOTH FIRMS, GIVEN COMPLICATED RELA-
TIONSHIP STEMMING FROM SUBCONTRACT ARRANGEMENT OF TRANS-
LINEAR. WOULD APPRECIATE SOONEST GOH REACTION TO RECENT
CONGRESSIONAL HEARINGS, AND THEIR RECEPTIVITY TO CONCILIA-
TION PROPOSAL WITH VIEW TOWARD RAISING THIS WITH TRANS-
LINEAR OFFICIALS CROOK AND CARDEN WHEN THEY COME FOR DIS-
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CUSSIONS WITH DEPUTY SECRETARY ON MARCH 22.

2. WE DO NOT BELIEVE IT ESSENTIAL AT THIS POINT TO HAVE FIRM LIST OF POSSIBLE CONCILIATORS. WHAT IS NEEDED NOW IS GOH ACCEPTANCE IN PRINCIPLE OF CONCEPT OF CONCILIATION/MEDIATION. SELECTION OF CONCILIATORS WOULD BE OPTION OF THE PARTIES. WE WILL, HOWEVER, CONTINUE TO MAKE INFORMAL INQUIRIES TO IDENTIFY APPROPRIATE INDIVIDUALS, AND

DEPARTMENT CAN OFFER GOOD OFFICES IN ASSISTING PARTIES WITH SELECTION OF CONCILIATOR ONCE PROCEDURE IS AGREED UPON.

3. IN THIS REGARD, BOTH THE INTERNATIONAL CENTRE FOR THE SETTLEMENT OF INVESTMENT DISPUTES (ICSID) AND THE PERMANENT COURT OF ARBITRATION AT THE HAGUE MAINTAIN ROSTERS OF CONCILIATORS AND ARBITRATORS FROM A NUMBER OF COUNTRIES. FROM THE UNITED STATES, THE FOLLOWING ARE LISTED:

A) ICSID (CONCILIATORS ONLY)

1. MR. NATHANIEL J. ELY, ATTORNEY
2. MR. WILLIAM H.G. FIZGERALD, FIRST VICE PRESIDENT HORNBLLOWER AND WEEKS - HEMPHILL, NOYES, INC.
3. MR. GILBERT L. MATON, PRESIDENT, JOHN I. THOMPSON AND COMPANY
4. MS. BETTY SOUTHARD MURPHY, ATTORNEY

B) PERMANENT COURT OF ARBITRATION (CONCILIATORS AND ARBITRATORS)

1. MR. RICHARD R. BAXTER, PROFESSOR OF INTERNATIONAL LAW, HARVARD LAW SCHOOL
2. HONORABLE HERBERT BROWNELL (FORMER ATTORNEY GENERAL) LORD, DAY AND LORD, 25 BROADWAY; NEW YORK, N.Y.
3. HONORABLE HERMAN PHLEGER, BROBECK, PHLEGER AND HARRISON, 111 SUTTER STREET, SAN FRANCISCO
4. MR. JOHN R. STEVENSON, FORMERLY LEGAL ADVISOR TO THE DEPARTMENT OF STATE

4. DEPARTMENT IS POUCHING TO POST COPY OF BERNE UNION STUDY "FACILITIES FOR INVESTMENT DISPUTE CONCILIATION AND FACT-FINDING" WHICH INCLUDES FULL ICSID AND PERMANENT COURT OF ARBITRATION ROSTERS.

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5. AMERICAN ARBITRATION ASSOCIATION, IN NEW YORK, ALSO MAINTAINS EXTENSIVE ROSTER OF AVAILABLE INDIVIDUALS AND CAN BE CALLED UPON TO PROVIDE LIST OF CANDIDATES WITH BACKGROUNDS DESIRED BY PARTIES.

6. WITH RESPECT TO TRANSLINEAR'S CLAIM THAT ITS PROPERTY WAS CONFISCATED BY GOH, IN MARCH 10 CONVERSATION WITH

DEPARTMENT OFFICER, MR. CROOK SAID THAT IT IS TRUE THAT CERTAIN HAITIANS HAVE COME TO TRANSLINEAR OFFERING TO BUY ITS EQUIPMENT AND THE CONTACT WAS MADE BY THE SAME HAITIAN WHO HAD ADVANCED THE SECOND EXTORTION ATTEMPT, LINKED TO MINISTER BAYARD'S SON. HE ALSO SAID, HOWEVER, PROBLEM OF SELLING EQUIPMENT REMAINS THE SAME, I.E., GOH WILL NOT PERMIT THE HAITIAN BUYER TO MOVE THE EQUIPMENT OFF THE ISLAND. DEPARTMENT WOULD LIKE EMBASSY'S COMMENT ON THESE

STATEMENTS IN PREPARATION FOR MARCH 22 MEETING.

7. WE ARE ALSO SENDING IN MONDAY POUCH COPY OF CHRONOLOGY OF EVENTS PREPARED BY TRANSLINEAR FOR JOINT ECONOMIC COMMITTEE. WOULD LIKE EMBASSY COMMENT ON THIS DOCUMENT, PARTICULARLY DISCREPANCIES WITH REF B.

8. WOULD APPRECIATE ANY SUGGESTIONS EMBASSY MAY HAVE ON POINTS TO BE MADE TO TRANSLINEAR EXECUTIVES, PARTICULARLY WITH REGARD TO CHARGES MADE IN PROXMIRE HEARINGS.
(TRANSCRIPT POUCHED MARCH 8.)

9. REQUEST EMBASSY REPLY BY COB WEDNESDAY, MARCH 17. KISSINGER

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